

City of Lincoln
Cable Television Advisory Board
PERFORMANCE EVALUATION OF
TIME WARNER CABLE SERVICE
May 24, 2007

Executive Summary

Time Warner Cable (TWC) provides and operates cable television service to the City of Lincoln and surrounding communities. During the summer and fall of 2006, TWC upgraded software contained in cable TV converter boxes from "Passport" to "Navigator." This upgrade caused an apparently temporary, but several months long, degradation in the quality of television services. Because of a large number of complaints, the Lincoln City Council ordered the Cable Television Advisory Board (CAB) to investigate the situation and to report back its findings and recommendations.

During its investigation, the CAB formally sent nearly 100 questions to TWC. Unfortunately, TWC did not answer many questions, claiming that answers would violate company proprietary interests. This report is therefore based partly on customer telephone calls, e-mails and letters sent to the Citizen Information Center, plus information found online and reported by the published and electronic press.

The CAB finds that TWC did unacceptably degrade television service provided to the citizens of Lincoln. The Board finds that TWC did conduct a software "beta test" without following common industry practice of customer notification and compensation. Further, the CAB finds that customer service interactions with citizens could be improved. This report includes seven recommendations. 1) TWC should improve its web pages to better inform citizens on how and to whom complaints should be lodged. 2) The CAB should develop a Subscriber Bill of Rights to clearly and explicitly tell consumers what they can expect and how to pursue remedies. 3) TWC should develop mechanisms to report on the type and number of complaints received from subscribers. 4) TWC should establish a formal policy of notification and compensation for testing and implementing major software changes. 5) TWC should compensate all digital cable customers for degraded service during the Navigator beta-testing period. 6) If technically feasible, customers should be able to choose between the Navigator and Passport Interactive Programming Guide. And 7) since TWC was not able to respond to all CAB questions, the City Council should use its subpoena authority to obtain any remaining needed information.

Background

Through a franchise agreement reached in November 2005, cable television service is provided to the citizens of Lincoln, NE, by Time Warner Cable. TWC's Southeast Nebraska Division operates this service for Lincoln and surrounding communities.

Under city cable ordinance, the City of Lincoln charters a Cable Television Advisory Board (CAB). Board members are appointed by the Mayor and confirmed by the City Council. The Board is charged to review cable TV service in the city annually, to examine specific issues as ordered by the City Council or Mayor, and to report back findings and recommendations.

On March 5, 2007, the CAB was asked by the City Council to examine the impact and problems caused by a cable TV converter box software upgrade initiated by Time Warner during the summer of 2006. The new "Navigator" software replaced the "Passport" software used by digital cable television customers for many years. This report responds to that charge.

In this report, the term "cable service" describes TWC's delivery of television programming to its customers. "Customer service" describes the interaction between customers and company representatives about that cable service.

The CAB formally submitted nearly 100 questions to TWC. Many of those questions were not answered because TWC claimed that the answers would violate TWC proprietary interests. Therefore, the CAB was forced to investigate the issues involved through complaints received from customers, from online sources such as cable industry websites and TWC web pages, and from discussions with citizens and with TWC representatives.

The Navigator Upgrade Process

TWC downloaded Navigator software to Lincoln digital boxes over a four-month period, from mid-August 2006 until mid-December 2006.

A large number of digital customers reported technical problems with the new Navigator software including service interruptions during which the image on their television screens went dark or froze. Calls to TWC instructed customers to "reboot" their boxes by unplugging the power cord from a power outlet for a period of 30 seconds to a minute. This would temporarily restore service. Some customers had to reboot several times daily. Several mentioned the inconvenience of moving heavy furniture or rearranging equipment to reach the cord. Poor information graphics, inability to record programs correctly, and poor system response to remote control inputs were also reported. Complaining customers seemed unanimous in characterizing the new software as inferior to the replaced Passport software. Many commented unfavorably on the irony of TWC raising rates despite degraded service caused by the upgrade.

The many problems apparently overtaxed TWC customer service staff. Customers reported long telephone waits to speak to customer service representatives. The frequently provided advice to reboot did not solve several customers' complaints. Occasionally, long waits were encountered when customers were switched to technical support staff. If technical support determined that it was necessary to replace the cable converter box, appointments for the switch took up to two weeks. Many customers were forced, as a result, to take their boxes to the TWC office. Unfortunately, different boxes did not always result in improved service.

Frustrated customers wrote letters to the Lincoln Journal Star and contacted city government officials demanding TWC either return to Passport or fix Navigator. Many questioned why Lincoln had no competing cable company to provide alternative, presumably better, service.

Evaluation Process

As a result of complaints, the City Council passed a resolution March 5, 2007, directing the Cable Television Advisory Board to conduct a performance evaluation of TWC. Under the 15-year franchise agreement between the City of Lincoln and TWC, this process may lead to negotiations to modify the franchise terms, but only if TWC judges them "both economically and technically feasible."

The Cable Advisory Board met March 19 and decided how to proceed with the evaluation. The Board would generate fact-finding questions for TWC and encourage public comment through the Citizen Information Center. At that meeting, TWC requested that all questions be submitted in writing to avoid misunderstandings and to facilitate review by their corporate officers and legal staff.

To assure that the CAB understood the issues being raised and the capability and potential of the new Navigator software, TWC staff explained and demonstrated the new software at a March 22 board meeting.

A public hearing was held March 27. Testimony was presented by TWC President Beth Scarborough, software professionals and several cable customers. The public comments were unanimously negative on Navigator. Software professionals testified that Navigator appeared to be early in its development cycle and apparently undergoing either "alpha" or "beta" testing.

Nearly 100 written questions generated by the CAB were sent to TWC March 23 and April 3. TWC promised written answers to all questions on April 13.

To facilitate the required evaluation, on April 4 the Board created two subcommittees, one on hardware/software issues and one on customer service issues.

TWC did not answer the written questions until April 25. While their response answered many questions, many were not answered with the explanation that the answers would involve protected propriety information.

The board discussed TWC's responses April 26 and decided to proceed with the evaluation despite not having all questions answered.

On May 10 subcommittee draft reports were submitted and discussed. Three subcommittee recommendations on customer service information, tracking of complaints, and testing notification were accepted. While the Board was unanimous in the need for a rebate to customers as a remedy for disrupted and degraded service, the amount of the rebate and the basis for its computing the amount were left for a future meeting.

During the May 17 Board meeting, the recommendation on customer rebate was resolved. In addition, the Board added recommendations about a Subscriber Bill of Rights, giving customers the choice to return to the

Passport software (if technically feasible) and suggesting that the City Council use its subpoena authority if more information is needed from TWC.

At the May 24 meeting, the Board modified recommendation 5 to extend the rebate to 35% of the digital customer's cable television bill. The Board accepted the draft report as its annual evaluation for 2007.

Major Issues and Considerations

1. Whose cable service was disrupted and how much?

TWC claimed not to know the answer to this but stated that only a minority of customers' cable service was disrupted. They indicated that the disruptions were relatively minor. TWC refused to tell the CAB how many Navigator users it had but Ann Shrewsbury, TWC public affairs manager, told the Journal Star newspaper that TWC had 75,000 total cable TV customers in Lincoln of whom 33,200 had digital service. TWC Division President Beth Scarborough told the City Council March 5 that TWC had received 7,000 calls about Navigator from 5,300 customers. She said March 27 that Navigator calls were continuing at 100 per day or 3,000 per month.

Based on public testimony and the number of written and telephoned complaints received, the Board believes all digital customers must have been affected. The Board believes the degree of degraded service was significant.

2. Was Lincoln used as TWC's beta test site for Navigator?

In a letter to the public, Division President Beth Scarborough wrote of the beta test. Her comment was later retracted. On March 5, 2007, she told the City Council, "We don't beta test in a real live environment."

Several software developers testified March 27 that Navigator was a long way from finished and full of bugs when it was introduced to Lincoln. Customer complaints to the city listed many technical shortcomings of the product, some persisting to the present. Everyone rated Navigator as inferior to Passport.

It is common practice in the software industry to perform "alpha testing" on a product within the developing company or organization. This testing finds major errors and conditions that prevent the software from meeting its intended use. "Beta testing" involves customers (users) outside of the company or developing organization in order to find problems that occur when the software is stressed by a large number of users in a variety of user environments. TWC clearly stated that Lincoln was the place for "early market" testing. They admitted that they performed testing within their company using TWC employees. The citizens of Lincoln were the first users outside of the company.

Ms. Scarborough wrote the mayor March 2 that "Navigator software has been deployed on more than 200,000 converters in Nebraska, Milwaukee and Kansas City." TWC would not answer questions about when the product was introduced in those other cities, but checks with municipal authorities there describe a more careful rollout months after Lincoln's started. Board investigation by examining cable industry web sites and by reviewing TWC web sites in Milwaukee and Kansas City indicated that those cities did receive Navigator for relatively simple digital converter boxes but have not, as yet, received upgrades for high definition or digital video recorder (DVR) boxes. These more complex boxes were the crux of the difficulties in the Lincoln test deployment.

On several occasions, TWC representatives indicated that the Navigator software was undergoing a large number of updates. This was a result of TWC declaring that fixing Navigator problems was "first priority." A large number of updates is in concert with software undergoing beta testing.

Based on the industry definition of beta test, on the admitted "early market" deployment in Lincoln, and on the large number of software updates performed, the Board concludes that Lincoln was, in fact, the beta test site for Navigator.

3. Is TWC's customer service adequate?

In public statements and in presentations to the CAB, TWC indicated pride in its customer care department. Based on the number of complaints and requests for information during the Navigator upgrade, the company hired extra customer service representatives to handle the volume of calls.

FCC rules require that a live customer service representative answer telephone calls within 30 seconds during normal business hours. TWC telephones appear to be answered within the required time period by an automated answering system. However, many TWC customers report long wait times – 10, 15, 20

minutes – before they are able to speak to a representative. Some TWC representatives are described as being helpful and others as rude and uncooperative. Some customers claim that appropriate action is taken only after they speak to company officers.

Mr. Richard Cassidy, TWC customer service manager, indicated that TWC does not track complaints except by broad internal routing categories. Yet Ms. Scarborough was able to testify as to how many customers had called how many times about Navigator. It is the belief of the Board that if TWC is not tracking customer complaint areas, for example, Navigator information requests, Navigator technical problems, etc., that they are not serving their customers well. Without such information, we cannot understand how TWC would prioritize their corporate response to problems.

TWC is required, under the franchise, to report on the number of written complaints it receives. The CAB believes this is inadequate and that reporting should include the number of telephone and e-mail complaints received. Further, the six-month reporting period should be reduced to three months to help assure that Lincoln's citizens are receiving quality cable television service.

The CAB finds that because of the high volume of complaints and requests for information, TWC customer service was substandard during the Navigator beta test period. Further, we find that the lack of complaint tracking could lead to inadequate customer support.

4. Do Lincoln customers deserve compensation for unwittingly taking part in beta testing and for degraded cable service during Navigator implementation?

It is common software industry practice to notify customers about beta tests, to clearly indicate the impact of such testing, and to compensate customers in some manner for their participation. Rather than provide a full disclosure to its customers, TWC told its customers about the great benefits and potential of Navigator prior to implementation. There was no indication that the product was anything less than a well tested, mature product.

On March 5, Ms. Scarborough stated that about 2,000 customers received credit in some form in compensation for their difficulties. During the Board's March 27 meeting, she indicated that "hundreds and hundreds and hundreds" had been compensated. Unfortunately, TWC's written response to Board questions indicated that an exact number was "confidential and competitively sensitive information."

It is the Board's finding that while TWC did provide some compensation to customers who complained, they did not offer a general rate reduction or other rebate to the majority of customers. Even in the case where compensation was offered, it was sometimes several months of "free HBO." This remedy was at trivial cost to TWC and appears to the Board to be largely HBO marketing. The Board finds that TWC's actions to date are inadequate and not uniformly applied.

Recommendations

Recommendation 1.

To help customers understand how complaints are handled, it is recommended that TWC redesign its customer service home page to resemble, for example, the New York & New Jersey TWC page, with a clear explanation of the complaint process here. TWC should inform customers of this change and monthly bills should henceforth refer to this process.

Recommendation 2.

To aid in consumer understanding, the City of Lincoln Cable Television Advisory Board, with the concurrence of the City Council, should establish and publish (on paper and via web pages) a Cable Television Subscriber Bill of Rights. By consolidating relevant information from the Franchise Agreement, FCC Regulations, and other legal sources, this Bill of Rights will clearly and explicitly let consumers know what they can expect in the way of support services and compensation for service degradation and outages. The CAB recommends that this document be based on the excellent Bill of Rights adopted by the City of Los Angeles Board of Information Technology Commissioners. A copy of their document is included in the Appendix to this report.

Recommendation 3.

To aid in ascertaining the quality of service provided to the citizens of Lincoln, it is recommended that TWC

report to the city on not only written complaints, but also on telephone and e-mail complaints about cable television service and the company's responses. These statistical reports, including a summary of any material trend of complaint, should be made every three months instead of six as now.

Recommendation 4.

To insure that Lincoln is not used as a testing location without adequate notice and compensation, it is recommended that TWC establish a beta testing policy for all future major software releases, including appropriate and timely notification, indication of potential problems, methods for collecting user opinions, and compensation of users. "Major software release" is defined as replacement of more than 25% of existing software code or requiring significant retraining of users. This policy will be subject to review and approval by the city.

Recommendation 5.

Compensate all Lincoln digital cable television customers for degraded service during the beta test period and for their involuntary participation in the testing process. This compensation shall be computed based on customer payments between the time Navigator was downloaded to their cable boxes and the billing period ending on or just prior to April 30, 2007, or whatever date the City Council deems appropriate. The amount of compensation shall be 35% of each digital cable television subscriber's bill, pro rated for partial months, if necessary. Because the City was not consulted prior to the testing, the Franchise Fee paid by TWC to the City of Lincoln will be computed without regard to the rebate.

Recommendation 6.

If it is technically feasible, allow customers to individually select the Passport Interactive Program Guide in lieu of Navigator.

Recommendation 7.

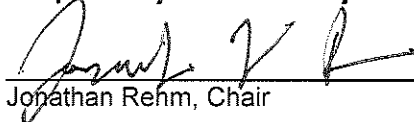
Since TWC was unwilling to respond to all questions raised by the CAB, if further information is needed on relevant issues, the Board recommends that the City Council use its subpoena authority to solicit such information from TWC.

Conclusions

Time Warner Cable has wronged Lincoln customers through degraded cable television service and by employing them involuntarily as uncompensated beta test participants. Further, TWC has misled customers about Navigator initial capabilities, minimized the software's initial shortcomings and by not answering legitimate questions, failed to cooperate fully with the evaluation process.

The CAB notes that meeting the Board's recommendations may entail negotiation of changes to the franchise agreement. While we are concerned about the difficulties of the process, we note that TWC has been a good corporate citizen of Lincoln. They have contributed to city causes and provided significant contributions to the quality of life in Lincoln by keeping the city up to date in entertainment and information technology. In recognition of this spirit and commitment, we hope that TWC and the city can quickly resolve the issues raised in this report.

Respectfully Submitted by the Lincoln Cable Television Advisory Board


Jonathan Rehm, Chair

Members:

Stuart Long, Vice Chair
Jim Johnson, Secretary
Donna Behlen
Herb Friedman
Mary Herres
Jerrold Jaeger
Dr. Laurie Thomas Lee
Herb Schimek
Scott Young
Arthur Zygielbaum

Appendixes

Sample Subscriber Bill of Rights	subbillofrights.pdf
City Council resolution	Councilresolution.pdf
Beth Scarborough letters to customers	TWCpresLetters.pdf
Beth Scarborough testimony to City Council	ScarboroughTestimony.pdf
Written CAB questions and TWC answers	TWCResponsetoQues.pdf
Board minutes for March, April, May	CABMinMar-May.pdf
Subcommittee reports	
Customer Service Subcommittee Report	CustSvcSubcommRpt.pdf
Hardware Subcommittee Report	navHardWrSubCom.pdf
Emails and Correspondence Received	
Voice Mail & Letters	CABvcLtrs.pdf
List of emails by email address	CABemailLst.pdf
Emails received (330 pages)	CABemails07.pdf
Emails received by Council	CouncilNAVemail.pdf
FCC customer service obligations	Cable Customer service standards.pdf
Lincoln cable television ordinance	515.lmc.pdf
Lincoln-TWC franchise agreement	Franchise Agmt.pdf
Cable Advisory Board members	CABlst507.pdf
Research Links	CABresearchlinks.pdf